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Aug 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Daniel Coble, Circuit Court Judge

Consolidated Case Nos. 2019-CP-26-02083 and 2019-CP-26-02152

Appellate Case No. 2023-000295

Gary L. Park and Cynthia C. Park Appellants

vs.

Scott Barry Gutovitz and Caron Dawn Gutovitz..... Respondents

RESPONDENTS' MOTION TO STRIKE

The Respondents Gutovitz move this Court for an Order striking the following in Appellants' designation of matters to be included in the Record on Appeal. The reasoning is the only Order appealed is the Order denying the Parks' motion to strike jury trial demand. Accordingly, the other orders along with other extraneous matters in this case have nothing to do with this appeal. See SCACR 209(b) (A party shall not include any matter in his designation which is not relevant to the appeal.)

Respondents request the Court strike the following from the Appellants' Designation of Matter:

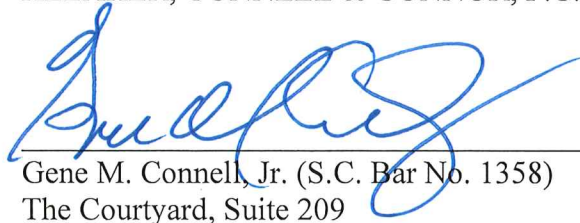
1. Order of the Honorable Benjamin H. Culbertson, Form 4, Granting Temporary Injunction December 17, 2019.

2. Order of the Honorable Benjamin H. Culbertson, form 4, Denying Defendants' Motion for Summary Judgment, December 17, 2019.
3. Order of the Honorable Benjamin H. Culbertson, Granting Temporary Injunction, February 10, 2020.
5. Order of the Honorable William H. Seals, Jr., Form 4, Denying Motion for Summary Judgment, January 26, 2021.
- 6.. Order of the Honorable William H. Seals, Jr., Form 4, Granting Motion to Dissolve Injunction and Bond Money to be Released, January 26, 2021.
7. Order of the Honorable William H. Seals, Jr., Dissolving Temporary Injunction, February 9, 2021.
22. Parks' Motion for Injunction & Memorandum in Support, October 28, 2019.
23. Gutovitzs' Motion to Amend Complaint; January 24 2020, filed.
24. Gutovitzs' Motion to Dissolve Injunction, October 10, 2020.
25. Parks' Opposition to Ending Injunction, November 6, 2020.
26. Parks' Motion in Opposition, November 9, 2020.
28. Parks' Offer of Judgement, November 4, 2022.
29. Parks' Motion for Sanctions Against Gutovitz, November 18 2022.
31. Motion to Exclude Expert Testimony of Alan Campbell, P.E., November 18 2022.

WHEREFORE, Respondents are informed and believe that the record should not contain extraneous or unrelated material pursuant to the South Carolina Rules of Appellate Procedure.. In this case the aforementioned have no relationship to the Order on appeal in this case which is the denial of a motion to strike the Gutovitzes' jury trial demand and as a result all of the above items should be struck as a matter of law.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.



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Attorneys for Respondents

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PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a copy of **Respondents' Motion to Strike** on the 15th day of August, 2023 by depositing a copy of same in the United States Mail, postage prepaid, to:

George W. Redman, III, Esquire
Robert S. Shelton, Esquire
Bellamy Rutenberg Copeland Epps Gravely & Bowers, P.A.
P.O. Box 357
Myrtle Beach, SC 29578-0357

Shelia Y. McCumbee
Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 15th day of August 2023

Donna H. Hand
Notary Public for South Carolina
My Commission Expires: 3-28-26

KELAHER, CONNELL & CONNOR, P.C.
ATTORNEYS AT LAW
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August 15, 2023

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Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Appellate Case No. 2023-000295
Gary L. Park and Cynthia C. Park v. Scott Barry Gutovitz and Caron Dawn Gutovitz
C/A No. 2019-CP-26-02083
Scott Gutovitz and Caron Gutovitz v. Gary L. Park and Cynthia C. Park
C/A No. 2019-CP-26-02152
Our File No. 2019-0140C

Dear Ms. Kitchings:

Enclosed please find Respondents' Motion to Strike and Proof of Service in the above-captioned matter. Our check for the \$50.00 filing fee is being mailed this date.

By copy of this letter, we hereby serve Respondents' Motion to Strike on counsel of record.

Should you have any question or need anything further at this time, please do not hesitate to contact me.

Sincerely yours,


Gene M. Connell, Jr.

GMCJr:sm
Enclosures

cc: George W. Redman, III, Esquire
Robert S. Shelton, Esquire
L. Morgan Martin, Esquire